

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES D. SZEKERES)	
)	
Plaintiff,)	Case No. 1:07-cv-225
)	
vs.)	TRIAL BY JURY DEMANDED
)	
CSX TRANSPORTATION, INC.,)	
a corporation,)	
)	
Defendant.)	

COMPLAINT AT LAW AND JURY DEMAND

The Plaintiff, JAMES SZEKERES, by his attorneys, HARRINGTON, THOMPSON, ACKER & HARRINGTON, LTD., complaining of the Defendant, CSX TRANSPORTATION, INC., a corporation (hereinafter, "CSXT"), states:

1. Subject matter jurisdiction for the Plaintiff's cause of action against CSXT exists under the Federal Employers' Liability Act pursuant to 45 U.S.C. §51; 45 U.S.C. §56 and 28 U.S.C. §1331.
2. Venue for this cause of action exists in the United States District Court for the Northern District of Ohio, Eastern Division pursuant to 28 U.S.C. §1391(b).
3. The Defendant, CSXT, is a corporation doing business as a common carrier for hire, engaged in interstate commerce by rail in various states of the United States, including the State of Ohio.
4. At all times alleged herein, the Plaintiff, JAMES SZEKERES, was employed by the Defendant, CSXT, as an conductor and his duties as such were in furtherance of interstate commerce.

5. On or about January 4, 2006, Plaintiff was assigned to work as a conductor at or near Valley City, Ohio.

6. On or about January 4, 2006, Plaintiff was required to walk on the ground to operate railroad ground switches to complete his job for Defendant.

7. At the time and place alleged, Plaintiff was caused to sustain injury after being caused to step in mud located on the ground.

8. Plaintiff was acting at all times alleged herein within the scope of his employment and in furtherance of Defendant's business.

9. At all times alleged herein, Plaintiff, JAMES SZEKERES, and Defendant, CSXT, are subject to an Act of Commerce commonly known as the Federal Employers' Liability Act, 45 U.S.C. §51-60, with regard to all claims for personal injuries and other pecuniary damages allegedly sustained by Plaintiff as a result of the aforesaid occurrence.

10. At all times alleged herein, Defendant had a duty under the Federal Employers' Liability Act, 45 U.S.C. §§51-60, to provide the Plaintiff with a reasonably safe place to work.

11. At all times alleged herein, the aforesaid duty to provide Plaintiff with a reasonably safe place to work as mandated by the Federal Employers' Liability Act, 45 U.S.C. §§51-60, was non-delegable.

12. At the time and place aforesaid, the Defendant, CSXT, was negligent and violated the Federal Employers' Liability Act, in one or more of the following respects:

- a. In failing to provide the Plaintiff with a reasonably safe place to work;
- b. In failing to use reasonably safe methods and procedures with regard to the maintenance of the ground area where Plaintiff was required to walk in the performance of his duties;

- c. In failing to properly inspect the area alongside the track when ordinary inspection would have disclosed that mud existed alongside the track and which could have been properly covered with walking ballast to have averted injury to Plaintiff;
- d. In failing to cover the mud with walking ballast when it knew or should have known and foreseen that trainmen, including Plaintiff, would be subject to jeopardy of injury performing their duties while working in the area;
- e. In directing the Plaintiff to work at a location which was not properly maintained;
- f. In failing to warn Plaintiff that there was an unsafe condition in the area where the Plaintiff was directed to perform his assigned duties.

13. The Plaintiff, JAMES SZEKERES, sustained personal injuries, disability, pain and suffering, medical expense, wage losses, and other damages supported by the evidence and permitted by law resulting in whole or in part from the careless and negligent acts and omissions of Defendant.

WHEREFORE, Plaintiff prays for judgment against the Defendant, CSX TRANSPORTATION, INC., in a dollar amount sufficient to satisfy the jurisdictional limitations of this court, plus whatever additional amount the court and the jury deem proper as compensatory damages, plus the costs of this lawsuit.

Respectfully submitted,

By:

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JURY DEMAND

The Plaintiff, by his attorneys, HARRINGTON, THOMPSON, ACKER & HARRINGTON, LTD.,
hereby demands trial by jury.

Respectfully submitted,

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